

105TH CONGRESS
1ST SESSION

H. R. 635

To amend the Animal Welfare Act to extend the licensing requirements of the Act to additional dealers in animals and to strengthen the registration, prohibition, and enforcement provisions of the Act.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 1997

Mr. FOX of Pennsylvania (for himself, Mr. LANTOS, Mrs. KELLY, Mr. NEAL of Massachusetts, Ms. RIVERS, Mr. GUTIERREZ, Mr. SHAYS, Ms. FURSE, Ms. MOLINARI, Mr. MANTON, Mr. ANDREWS, and Mr. FARR of California) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Animal Welfare Act to extend the licensing requirements of the Act to additional dealers in animals and to strengthen the registration, prohibition, and enforcement provisions of the Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Animal Welfare Act Amendments of 1997”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title and table of contents.
 Sec. 2. Expanded definition of dealer.
 Sec. 3. Licensing requirements.
 Sec. 4. Prohibited activities without license.
 Sec. 5. Provisions regarding auction sales.
 Sec. 6. Enforcement and penalties.
 Sec. 7. Injunction authority.

1 **SEC. 2. EXPANDED DEFINITION OF DEALER.**

2 (a) DEALER.—Subsection (f) of section 2 of the Ani-
 3 mal Welfare Act (7 U.S.C. 2132) is amended to read as
 4 follows:

5 “(f) DEALER.—(1) The term ‘dealer’ means any per-
 6 son who (in commerce for compensation or profit) ac-
 7 quires, delivers for transportation or transports (except as
 8 a carrier), buys or offers to buy, sells or offers for sale,
 9 leases or offers to lease, negotiates the purchase, sale, or
 10 lease of, or otherwise transfers—

11 “(A) any animal, whether alive or dead, for re-
 12 search, experimentation, teaching, exhibition, or use
 13 as a pet;

14 “(B) any dog for hunting or security purposes;
 15 or

16 “(C) any dog or cat for breeding purposes.

17 “(2) The term includes an operator of an auction sale
 18 at which any activity described in paragraph (1) takes
 19 place and any person who owns or leases premises that
 20 are used for a trade day, flea market, or similar event
 21 at which any activity described in paragraph (1) takes
 22 place.

1 “(3) The term includes an animal pound or shelter
2 operated by or on behalf of a local government and any
3 governmental entity that sells or otherwise provides ani-
4 mals to any dealer or research facility.”.

5 (b) CLERICAL AMENDMENTS.—Section 2 of such Act
6 is further amended—

7 (1) by striking the semicolon at the end of sub-
8 sections (a), (b), (d), (e), and (g) through (k) and
9 inserting a period; and

10 (2) in subsection (n), by striking “; and” and
11 inserting a period.

12 **SEC. 3. LICENSING REQUIREMENTS.**

13 Section 3 of the Animal Welfare Act (7 U.S.C. 2133)
14 is amended to read as follows:

15 **“SEC. 3. LICENSING REQUIREMENTS.**

16 “(a) ISSUANCE OF LICENSES.—To apply for a license
17 under this section, a dealer or exhibitor shall submit to
18 the Secretary an application in such form and manner as
19 the Secretary may prescribe. The Secretary shall issue li-
20 censes to dealers and exhibitors upon payment of the ap-
21 plicable fee established pursuant to section 23 and dem-
22 onstration by the dealer or exhibitor of compliance with
23 the regulations and standards promulgated by the Sec-
24 retary pursuant to this Act.

25 “(b) LICENSING EXEMPTIONS.—

1 “(1) EXEMPTIONS AUTHORIZED.—The Sec-
2 retary may issue regulations exempting persons de-
3 scribed in paragraph (2) from licensing and other
4 requirements under this Act, subject to such condi-
5 tions as the Secretary may prescribe, if, in the judg-
6 ment of the Secretary—

7 “(A) the licensing of such persons would
8 not effectuate the policy of the Act; and

9 “(B) the activity of the persons does not
10 involve the use of animals for research pur-
11 poses.

12 “(2) PERSONS ELIGIBLE FOR EXEMPTIONS.—
13 Persons who may be exempted from licensing and
14 other requirements under paragraph (1) include the
15 following:

16 “(A) Operators of retail pet stores (except
17 retail pet stores which sell animals to research
18 facilities, exhibitors, or dealers).

19 “(B) Persons who sell wild or exotic ani-
20 mals, as defined by the Secretary, with respect
21 to such wild or exotic animals.

22 “(C) Persons whose business activities as
23 dealers or exhibitors are de minimis.”.

1 “(c) LICENSES PROHIBITED.—The Secretary shall
2 not issue (or renew) a license under this section with re-
3 gard to any of the following persons:

4 “(1) A person whose license has been sus-
5 pended, revoked, or voluntarily terminated while the
6 person was in violation of this Act or a regulation
7 or standard promulgated under this Act.

8 “(2) A person who has not paid any civil pen-
9 alty previously assessed by the Secretary under this
10 Act.

11 “(3) A person who has been convicted of, or en-
12 tered a plea of nolo contendere or its equivalent to,
13 a charge of violating any of the following:

14 “(A) A treaty or Federal, State, or local
15 law involving the care or treatment of, or rec-
16 ordkeeping for, animals.

17 “(B) The Marine Mammal Protection Act
18 of 1972 (16 U.S.C. 1361 et seq.), the Endan-
19 gered Species Act of 1973 (16 U.S.C. 1531 et
20 seq.), or any treaty, Federal, State, or local law
21 for the protection of endangered or threatened
22 species.”.

23 **SEC. 4. PROHIBITED ACTIVITIES WITHOUT LICENSE.**

24 Section 4 of the Animal Welfare Act (7 U.S.C. 2134)
25 is amended to read as follows:

1 **“SEC. 4. EFFECT OF FAILURE TO OBTAIN LICENSE OR EX-**
2 **EMPTION.**

3 “(a) TREATMENT OF LICENSED AND EXEMPTED
4 PERSONS.—Subsection (b) does not apply to a dealer or
5 exhibitor who—

6 “(1) holds a current and unsuspended license
7 from the Secretary under section 3(a); or

8 “(2) is exempted by the Secretary from such li-
9 censing requirement pursuant to section 3(b).

10 “(b) PROHIBITION AGAINST CERTAIN ACTIVITIES.—
11 Except in the case of dealers and exhibitors described in
12 subsection (a), a dealer or exhibitor may not—

13 “(1) acquire any animal;

14 “(2) sell or offer for sale any animal;

15 “(3) lease or offer for lease any animal;

16 “(4) transport or offer for transportation any
17 animal;

18 “(5) buy or offer to buy any animal;

19 “(6) exhibit or offer to exhibit;

20 “(7) transfer any animal; or

21 “(8) engage in any other business activity as a
22 dealer or exhibitor.”.

23 **SEC. 5. PROVISIONS REGARDING AUCTION SALES.**

24 (a) REGULATION.—Section 12 of the Animal Welfare
25 Act (7 U.S.C. 2142) is amended to read as follows:

1 **“SEC. 12. HUMANE STANDARDS AND RECORDKEEPING RE-**
2 **QUIREMENTS AT AUCTION SALES.**

3 “The Secretary shall promulgate humane standards
4 and recordkeeping and reporting requirements to govern
5 the purchase, sale, or handling of animals by—

6 “(1) dealers, research facilities, exhibitors at
7 auction sales; and

8 “(2) by persons consigning animals to auction
9 sales.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) HOLDING PERIOD.—Section 5 of the Ani-
12 mal Welfare Act (7 U.S.C. 2135) is amended by
13 striking “Secretary: *Provided*, That operators of
14 auction sales subject to section 12 of this Act” and
15 inserting “Secretary, except that operators of auc-
16 tion sales”.

17 (2) RESEARCH FACILITY PURCHASES.—Section
18 7 of the Animal Welfare Act (7 U.S.C. 2137) is
19 amended by striking “subject to section 12 of this
20 Act”.

21 (3) FEDERAL PURCHASES.—Section 8 of the
22 Animal Welfare Act (7 U.S.C. 2138) is amended by
23 striking “subject to section 12 of this Act”.

24 (4) AGENCY RELATIONSHIP.—Section 9 of the
25 Animal Welfare Act (7 U.S.C. 2139) is amended by
26 striking “subject to section 12 of this Act”.

1 (5) ENFORCEMENT AND PENALTIES.—Section
 2 19 of the Animal Welfare Act (7 U.S.C. 2149) is
 3 amended—

4 (A) in subsections (b) and (c), by striking
 5 “carrier, or operator of an auction sale subject
 6 to section 12 of this Act,” both places it ap-
 7 pears and inserting “or carrier”; and

8 (B) in subsection (d), by striking “, exhibi-
 9 tor, or operator of an auction sale subject to
 10 section 12 of this Act,” and inserting “or ex-
 11 hibitor”.

12 **SEC. 6. ENFORCEMENT AND PENALTIES.**

13 Subsection (a) of section 19 of the Animal Welfare
 14 Act (7 U.S.C. 2149), is amended to read as follows:

15 “(a) SUSPENSION OR REFUSAL TO RENEW LI-
 16 CENSE.—

17 “(1) TEMPORARY AND FINAL ORDERS.—If the
 18 Secretary has reason to believe that a person li-
 19 censed under this Act has violated or is violating any
 20 provision of this Act (or the regulations or standards
 21 issued under this Act), the Secretary may suspend
 22 or refuse to renew the person’s license temporarily,
 23 but not to exceed 120 days except as provided in
 24 paragraph (3). If after notice and opportunity for
 25 hearing the violation is determined to have occurred,

1 the Secretary may suspend or refuse to renew the
2 person's license for such additional period as the
3 Secretary may specify or revoke the license. An
4 order suspending, revoking, or refusing to renew a
5 license after notice and opportunity for hearing shall
6 be effective pending the final determination of the
7 Secretary.

8 “(2) NOTICE OF TEMPORARY ACTION; LI-
9 CENSEE RIGHTS.—When the Secretary temporarily
10 suspends or refuses to renew a license under para-
11 graph (1), the Secretary shall promptly send written
12 notice to the licensee informing the licensee of the
13 following:

14 “(A) The nature of the alleged violation.

15 “(B) The time and place of the alleged vio-
16 lation.

17 “(C) The action of the Secretary in re-
18 sponse to the alleged violation.

19 “(D) The right of the licensee to request
20 a hearing on the matter only during the 10-day
21 period beginning on the date the licensee re-
22 ceives the written notice.

23 “(3) TIME FOR HEARING.—A hearing on an al-
24 leged violation shall be held within 30 days after the
25 date on which the Secretary receives the request for

1 the hearing. However, unless the licensee requests
2 the hearing within 10 days of receipt of the written
3 notice, the licensee shall forfeit any right to a hear-
4 ing within such 30-day period, and the suspension or
5 refusal to renew shall remain in effect until a hear-
6 ing is held and the administrative law judge issues
7 a decision and order.

8 “(4) TIME FOR DECISION.—The administrative
9 law judge shall issue a decision and order within 30
10 days after the conclusion of a hearing whenever a
11 suspension or refusal to renew is in effect.”.

12 **SEC. 7. INJUNCTION AUTHORITY.**

13 Subsection (a) of section 29 of the Animal Welfare
14 Act (7 U.S.C. 2159) is amended to read as follows:

15 “(a) REQUEST FOR ATTORNEY GENERAL TO APPLY
16 FOR INJUNCTION.—

17 “(1) REQUEST.—Whenever the Secretary has
18 reason to believe that a person described in para-
19 graph (2) should be enjoined from operating in vio-
20 lation of this Act or the regulations and standards
21 issued under this Act, the Secretary shall notify the
22 Attorney General. Upon notification, the Attorney
23 General may apply to the United States district
24 court for the district in which the person resides or
25 conducts business for a temporary restraining order

1 or preliminary injunction to prevent the person from
2 operating in violation of this Act or the regulations
3 and standards prescribed under this Act.

4 “(2) CIRCUMSTANCES FOR MAKING REQUEST.—
5 A person referred to in paragraph (1) is a dealer,
6 exhibitor, research facility, carrier, or intermediate
7 handler that the Secretary has reason to believe—

8 “(A) is dealing in stolen animals;

9 “(B) is placing the health of any animal in
10 danger in violation of this Act or the regula-
11 tions or standards issued under this Act; or

12 “(C) is otherwise in violation of this Act or
13 the regulations and standards issued under this
14 Act.

15 “(3) DEALING IN ANIMALS.—For purposes of
16 paragraph (2), a person who engages in any of the
17 activities described in section 2(f)(1) shall be consid-
18 ered to be dealing in animals.”.

○